

REMARKS

This is a full and timely response to the non-final Official Action mailed **June 24, 2009** (the “Office Action” or “Action”). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

By the forgoing amendment, claims 7, 13, 19, and 25 have been amended. Thus, claims 1-25 are currently pending for further action.

Allowed Claims:

In the outstanding Office Action, the Examiner allowed claims 1-6. Applicant wishes to thank the Examiner for the allowance of these claims.

Previous Office Actions contained statements of reasons for the allowance of claims 1-6. Applicant agrees with the Examiner's conclusions regarding the patentability of these claims, without necessarily agreeing with or acquiescing in the Examiner's reasoning. In particular, Applicant believes that the application is allowable because the prior art fails to teach, anticipate or render obvious the invention as claimed, independent of how the claims or claimed subject matter may be paraphrased.

Allowable Subject Matter:

In the outstanding Office Action, the Examiner indicated the presence of allowable subject matter in claims 9, 15, and 21. Applicant wishes to thank the Examiner for this identification of allowable subject matter.

The recent Office Action also contains a statement of reasons for the allowance or allowability of claims 9, 15, and 21. As above, Applicant agrees with the Examiner's conclusions regarding the patentability of these claims, without necessarily agreeing with or acquiescing in the Examiner's reasoning. In particular, Applicant believes that the application is allowable because the prior art fails to teach, anticipate or render obvious the invention as claimed, independent of how the claims or claimed subject matter may be paraphrased.

Prior Art:

Rejections under 35 U.S.C. §102(b):

In the recent Office Action, claims 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23, and 25 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,345,313 to Blank (hereinafter “Blank”). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claims 7, 13, 19, and 25:

Claim 7 recites:

A method for processing a displayed image comprising the steps of:

passively testing a first version of said *displayed image* captured by an image capture device to determine if a portion of said displayed image is blocked from said image capture device; and

actively testing said portion of said displayed image based on said first version of said displayed image and a second version of said displayed image to confirm whether said portion of said displayed image is blocked from said image capture device, wherein said second version of said displayed image is captured by said image capture device after being displayed on *an electronic display device*.

(Emphasis added).

Claims 13, 19, and 25 recite similar language as follows:

Claim 13:

A computer-readable medium containing a program that performs the steps of:
passively testing a first version of ***a displayed image*** captured by an image capture device to determine if a portion of said displayed image is blocked from said image capture device; and
actively testing said portion of said displayed image based on said first version of said displayed image and a second version of said displayed image to confirm whether said portion of said displayed image is blocked from said image capture device, wherein said second version of said displayed image is captured by said image capture device after being displayed on ***an electronic display***.

(Emphasis added).

Claim 19:

An image processing system comprising:
an electronic display for displaying an image;
an image capture device for capturing a first version of said displayed image; and
a processor, connected to said display and said image capture device for passively testing said first version of said displayed image captured by said image capture device to determine if a portion of said displayed image is blocked from said image capture device; and for actively testing said portion of said displayed image based on said first version of said displayed image and a second version of said displayed image to confirm whether said portion of said displayed image is blocked from said image capture device, wherein said second version of said displayed image is captured by said image capture device after being displayed on ***said electronic display***.

(Emphasis added).

Claim 25:

An image processing system comprising:
means for electronically displaying an image;
means for capturing a first version of said ***displayed image***; and
means, connected to said means for electronically displaying and said means for capturing, for passively testing said first version of said displayed image captured by said means for capturing to determine if a portion of said

displayed image is blocked from said means for capturing and for actively testing said portion of said displayed image based on said first version of said displayed image and a second version of said displayed image to confirm whether said portion of said displayed image is blocked from said means for capturing, wherein said second version of said displayed image is captured by said means for capturing after being displayed on *said means for electronically displaying*.

(Emphasis added).

Support for the amendment to claims 7, 13, 19, and 25 can be found in Applicant's originally filed specification at, for example, paragraphs [0022]-[0024] and Figs. 2, 5A, and 5B.

In contrast, Blank does not teach or suggest a displayed image or an *electronic* display for displaying such a displayed image. The Office Action states that "Blank reads on a method for processing a display image (see figure 1) comprising steps of passively testing a first version of a displayed image . . . , and . . . actively testing a portion of said displayed image . . . being displayed on said display device" (Action, pp. 3-4).

According to the Action, this anticipates claim 7. The Office Action further states that claims 13, 19 and 25 are rejected under the same rationale as that of claim 7. (Action, p. 4).

However, the Office Action's assertions that Blank teaches the claimed invention are incorrect. Blank is merely directed to the traditional systems and methods of filming an actor in front of a monochromatic background, which background is later replaced with a desired background image, while retaining the actor in the foreground. Specifically, Blank teaches a "monochrome background 24, which can be any desired color." (Blank, col. 6, ll. 2-3). In sum, Blank simply teaches the use of a blue or green screen in a system that utilizes chromakey, and does not teach a display device used to produce a displayed image.

In contrast, claims 7, 13, 19, and 25 recite displayed images being displayed on an electronic display device, not merely a monochromatic background. The display device is then imaged with an imaging device including any objects in the foreground. The image is

then processed to create a virtual shadow of any objects in the foreground, i.e., in front of the electronic display device. This subject matter is clearly not taught or suggested by Blank.

Respectfully, to anticipate a claim, a reference must teach each and every element of the claim, and “the identical invention must be shown *in as complete detail as contained in the ... claim.*” MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, “[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)). Therefore, for at least the reasons explained here, the rejection based on Blank of claims 7, 13, 19, and 25 and their dependent claims should be reconsidered and withdrawn.

Additionally, various dependent claims of the application recite subject matter that is further patentable over the cited prior art. Specific, non-exclusive examples follow.

Claims 8, 14, and 20:

Claim 8 recites:

The method of claim 7, wherein said step of passively testing further comprises the step of:

comparing a value of each pixel of said first version of said displayed image captured by said image capture device to a corresponding value of each pixel of said displayed image.

(Emphasis added).

Claims 14 and 20 recite similar language.

In contrast, Blank does not teach or suggest comparing a value of each pixel of a first version of a displayed image captured by an image capture device to a corresponding value of each pixel of the displayed image. Blank simply teaches the step of systematically comparing the hue gamma of a standard pixel with a neighboring pixel to determine if the neighboring pixel is different. In other words, the system of Blank simply compares neighboring pixels within a single image.

In contrast, claims 8, 14, and 20 recite comparing a value of each pixel of a first version of a displayed image captured by an image capture device to a corresponding value of each pixel of the displayed image. This subject matter is clearly not taught or suggested by Blank.

Again, to anticipate a claim, a reference must teach each and every element of the claim, and “the identical invention must be shown *in as complete detail as contained in the ... claim.*” MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, “[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)). Therefore, for at least the reasons explained here, the rejection based on Blank of claims 8, 14, and 20 should be reconsidered and withdrawn.

Rejections under 35 U.S.C. §103(a):

In the recent Office Action, claims 12, 18, and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Blank in view of U.S. Patent No. 5,208,871 to Eschbach

(hereinafter “Eschbach”). The rejection of claims 12, 18, and 24 should be reconsidered and withdrawn for at least the same reasons given above in favor of the patentability of independent claims 7, 13, and 19, respectively.

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue, or comment in the Office Action does not signify agreement with or concession of that rejection, issue, or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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